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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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05/24/2001

Lee E. Cannon

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2424

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7590

08/04/2009

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EXAMINER

WONG, JEFFREY KEITH

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

08/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 09/864,927</p>	<p><b>Applicant(s)</b> CANNON ET AL.</p>	
	<p><b>Examiner</b> Jeffrey K. Wong</p>	<p><b>Art Unit</b> 3714</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 08 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 34,35,38,55-64,68,69.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

/Jeffrey K Wong/

/JAMES S. MCCLELLAN/  
Primary Examiner, Art Unit 3714

Continuation of 3. NOTE: The amendments to the claims raise new issues that would require further search and consideration by the Examiner..

JKW

Continuation of 13. Other: The applicant alleges: "There is absolutely no disclosure in Bennett of initiating a tournament game of chance in a multi-player tournament in response to the occurrence of one or more qualifying outcome events of a primary game of chance. Rather, in Bennett, the controller 101 decides, apparently arbitrarily, when to initiate tournament play. The initiation of tournament play does not occur in response to a qualifying outcome event of Bennett's base slot game. In Bennett, the initiation of a tournament is not based on the occurrence of a qualifying event of a primary game, such as a winning outcome of the primary game. (Applicants' specification, (Paragraph[0020, 0055]). Instead, in Bennett, a tournament is triggered during routine game play. As explained in Bennett, "when the tournament is triggered during play of the base slot game, the same feature game will be displayed on every participating machine. (Col. 6, lines 47-50)."

The Examiner disagrees. Bennett discloses in Col. 6, lines 47-50, "...when the tournament is triggered during play of the base slot game..." This can clearly be viewed as a direct result of the primary game. In order for the tournament to be 'triggered', there would need to be some event that would cause said tournament to be 'triggered' in the first place. For example, much like the way it is well known in the art that a secondary/bonus game for a slot machine can be 'triggered' to a certain 'trigger' symbol or combination of symbols being determined in the primary/base game, the same scope can be applied for 'triggering' tournament play. The use of 'trigger' clearly indicates that tournament play commences as a direct result of the outcome of the base game. Also, there is nothing in the claim that discloses one or more qualifying outcome events.

"Unlike Applicants' claimed invention, Acres do not change the permitted rate of game play of a tournament game in response to an occurrence of a specific game outcome which may occur during play of the tournament game. Instead, in Acres, the game speed of a primary game is changed "in accordance with the demand on the casino floor." (paragraph [0012]). That is, the game speed is increased and the payback percentage decreased during high demand periods. (Id). Therefore, for at least these reasons, Applicants' claimed invention as set out in claim 34 and its dependent claims would not have been obvious in view of Acres, Pascal et al. and Bennett."

The Examiner disagrees. Acres teaches in the Abstract that "the behavior of each machine is controlled by configuring selected parameters such as game speed, payback percentage, or game appearance." Paragraph 17 teaches "The present invention comprises a method of configuring electronic gaming machines interconnected by a computer network to a host computer. Selected configuration parameters are implemented at each machine. A plurality of variables related to play on the gaming machines are monitored. A predetermined criterion for one of the variables is established. After play is permitted to occur at the machines, one of the machines is selected when the established criterion is met. The configuration parameter of the selected machine is changed in responsive to a computer command.". Paragraph 56 teaches that "the RAM in MCI 50 is programmed to monitor variables related to play on the gaming machine, such as coin in, coin out, player status, time that machine is played, etc." In this case, the coin out is viewed as the occurrence of a game outcome since it is obvious that a game outcome would result in a payout. Also, there is nothing disclosed of an occurrence of specific game outcome in the claim language.

JKW